Ware Cogen Limited Partnership

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July 13, 2006

Mr. Howard Bernstein
RPS Program Manager
Division of Energy Resources
100 Cambridge Street, Suite 1020
Boston, Massachusetts 02114

RE: Comments on Proposed Guideline on RPS Eligibility of Biomass Generation Units and Proposed Revisions of RPS Regulations 225 CMR 14.00, June 2, 2006

Dear Mr. Bernstein,

Ware Cogen Limited Partnership is not in favor of the general conditions of the *Proposed Guideline on RPS Eligibility of Biomass Generation Units*, and the accompanying proposed *Revisions of RPS Regulations 225 CMR 14.00*, issued June 2, 2006.

Ware Cogen is in the construction phase of an 8.6 MW biomass gasification facility in Ware, MA. As you are aware, construction progress was delayed last summer and throughout the fall, as a result of the DOER's *Notice of Inquiry (NOI)* issued July 1, 2005. The NOI created an uncertain environment in which to develop biomass facilities. Changes to the definition and eligibility of biomass facilities, and the resulting effects of those changes on the RECs market, would have been detrimental to future renewables development.

We continue to be frustrated by the DOER's pursuit of changes to the RPS, especially since these changes will again negatively impact the renewables industry in Massachusetts. Adopted in 2002, the RPS is just now beginning to gain momentum, with the renewables industry yet to see the full financial benefit of the RPS and RECs. Stable regulations are critical to the development of a strong renewable energy industry, and a RECs market that truly encourages the financing of **new, clean**, renewable energy projects is crucial to the advancement of the industry. Changes to the RPS and the RECs market this early in the life of the regulations will undermine confidence in the long term value of RECs, making it significantly more difficult for projects to secure financing. A reliable and robust RPS program demands predictability.

The proposed guidelines and regulations offer too many variables, are vague and incomplete, allow DOER to act in a discretionary manner, and will act as a deterrent to the development of smaller as well as more diversified renewable energy facilities:

- By allowing <u>certain</u> *(which ones? how is this determined?)* pre-existing biomass facilities to qualify as new renewable. This includes: 1) the allowance of pre-1998 generation equipment moved into the ISO-NE Control Area or an adjacent control area that did not previously operate in either area, to be eligible to qualify as a New Renewable Generation Unit; [1] and 2) the allowance of a unit installed at a site where a renewable generation unit had operated prior to 1998 to become an RPS-qualified

[1] C.3.a., Background Document on Proposed Revision to the Regulations for the Massachusetts Renewable Energy Portfolio Standard 225 CMR 14.00, June 2, 2006

unit without a vintage waiver.[2] How is this new generation? Pre-existing is not new. Qualifying these units as new renewable generation units will result in a large quantity of RECs flooding the market, causing REC prices to be destroyed. RECs offer significant financial incentive to developers of renewable energy, who depend on a stable or escalating revenue stream in order to develop and operate renewable energy facilities.

- With the intent to replace specific language in the regulations that defines low emission advanced power conversion technology, 225 CMR 14.05 (1)(a)(6), with "guidelines" that carry no regulatory power. This proposed change in definition deletes the sentence "Pile burn, stoker combustion or similar technologies shall not constitute an advanced biomass conversion technology." It was the legislature that determined that pile burn and stoker technology does not constitute advanced biomass conversion technology; simply deleting this language from the regulations does not qualify the technology as advanced or low emissions. The definition is replaced by reference in the regulations to new DOER guidelines establishing eligibility criteria for low emissions advanced power conversion technology. DOER states that the guideline may be updated periodically, *(how often? who decides when guidelines need to be revised? by what criteria?)* but any revised eligibility criteria would take effect 24 months following publication of a revised Guideline.[3] It is inappropriate that DOER alter Massachusetts regulations and the definition of low emissions advanced power conversion technology as often as it sees fit. This results in an unstable development environment. Again, stable regulations are critical to the development of a strong renewable energy industry.

- With the introduction of a new term, "RPS Qualified Generation Unit," 225 CMR 14.02, defined as "A Generation Unit or Aggregation that has received a Statement of Qualification from the Division." Will this unit represent **new** generation? If not, why address it? The definition itself is unspecific in describing the differences between RPS Qualified Generation Unit and New Renewable Generation Unit. In addition, the proposed regulations detail the qualification process for New Renewable Generation, 225 CMR 14.06, but do not describe the qualification process for an RPS Qualified Generation Unit.

- By providing DOER with the discretion to designate an entity other than Massachusetts Technology Park Corporation as a recipient of Alternative Compliance Payments, 225 CMR 14.08(3). What is the process for making this decision? By what criteria will this be determined?

Thank you for the opportunity to provide these comments. We look forward to a timely resolution.

Sincerely,

Allyn Coombs, Partner

[2] C.3.c., Background Document on Proposed Revisions to the Regulations for the Massachusetts Renewable Energy Portfolio Standard, 225 CMR 14.00, June 2, 2006.

[3] Proposed 225 CMR 14.05 (1)(a)6.a., and Background Document on Proposed Revisions to the Regulations for the Massachusetts Renewable Energy Portfolio Standard, 225 CMR 14.00, June 2, 2006.